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Electronically Filed  
THIRD CIRCUIT  
3CCV-24-0000033  
23-FEB-2024  
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Dkt. 26 ANCMP

Attorney for Defendant  
PATRICK JOHN LAWRENCE, JR., dba  
PJ'S CONSTRUCTION

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

KEAAU DEVELOPMENT	)	Civil No. 3CCV-24-0000033
PARTNERSHIP LLC.,	)	(Other Civil Action)
	)	
Plaintiff,	)	DEFENDANT PATRICK JOHN
	)	LAWRENCE, JR., dba PJ'S
vs.	)	CONSTRUCTION'S ANSWER TO
	)	VERIFIED COMPLAINT FILED ON
PATRICK JOHN LAWRENCE, JR., dba	)	JANUARY 30, 2024 [Dkt. 1];
PJ'S CONSTRUCTION; JANEL M.	)	COUNTERCLAIM; CERTIFICATE OF
ARAUJO INC; JANEL ARAUJO;	)	SERVICE
ROBERT C. SMELKER; ANNALEINE	)	
MELICIA REYNOLDS; LEORA WHITE	)	
THOMPSON; HEIRS OR ASSIGNS OF	)	
LEORA WHITE THOMPSON; COUNTY	)	
OF HAWAII; JOHN DOES 1-10; JANE	)	
DOES 1-10; DOE PARTNERSHIPS 1-10;	)	
DOE CORPORATIONS 1-10; DOE	)	
ENTITIES 1-10; DOE TRUSTS 1-10L and	)	
DOE GOVERNMENTAL AGENCIES	)	
1-10;	)	
	)	
Defendants.	)	
	)	JUDGE: To be assigned
	)	

DEFENDANT PATRICK JOHN LAWRENCE, JR., dba PJ'S CONSTRUCTION'S ANSWER  
TO VERIFIED COMPLAINT FILED ON JANUARY 30, 2024 [Dkt. 1]

Comes now, Defendant, PATRICK JOHN LAWRENCE, JR., dba PJ'S

CONSTRUCTION’S (“Defendant”), by and through his undersigned counsel and hereby submits his ANSWER TO VERIFIED COMPLAINT FILED ON JANUARY 30, 2024 [Dkt. 1], as follows:

#### FIRST DEFENSE

The Verified Complaint Filed on January 30, 2024 [Dkt. 1] (hereinafter referred to as “Complaint”) fails to state a claim against the Defendant upon which relief can be granted.

#### SECOND DEFENSE

1. Defendant admits the allegations contained in paragraphs 2, 3, 5, 12, 13, 14, 18, 19, 20, 28, 29, 31, 32, 33, 35, 36, 39, 43, 45, 46, and 49 of the Complaint.

2. Defendant denies the allegations contained in paragraphs 15, 16, 17, 21, 22, 23, 24, 25, 26, 27, 37, 38, 40, 47, 48, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 90, 91, 92, 93, 94, and all remedies in the Prayer for Relief of the Complaint and all subparts stated therein

3. Defendant is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 1, 4, 6, 7, 8, 9, 10, 11, 30, 34, 41, 42, 44, 57, 65, 87, 88, and 89, of the Complaint and based upon such lack of knowledge or information, denies the same.

#### THIRD DEFENSE

Plaintiff failed to exhaust its contractual remedies.

#### FOURTH DEFENSE

Defendant, by and through its authorized representatives, acted in good faith at all times.

FIFTH DEFENSE

The claims are barred by consent and/or waiver and/or estoppel.

SIXTH DEFENSE

Plaintiff has failed to mitigate damages, if any.

SEVENTH DEFENSE

The claims are barred by the applicable statute of limitations.

EIGHTH DEFENSE

The Plaintiff lacks standing to bring the present action.

NINTH DEFENSE

The claims are barred by laches.

TENTH DEFENSE

The claims are barred by unclean hands.

ELEVENTH DEFENSE (Affirmative Defenses)

Defendant intends to rely on affirmative defenses, including but not limited to, accord and satisfaction, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other matter constituting an avoidance or affirmative defense.

TWELFTH DEFENSE

Based on the insufficiency of the allegations in the Complaint, Defendant cannot formulate all of his defenses at this time, and reserves the right to amend his Answer to include additional affirmative defenses or other defenses, including filing a counter-claim and/or third party complaint against the co-Defendants, if and when discovery justifies the same.

### THIRTEENTH DEFENSE

Plaintiff unreasonably failed to utilize processes and procedures made available that would have prevented or corrected the injuries of which Plaintiff complains.

### FOURTEENTH DEFENSE

The actions taken by the Defendant were taken, made, and done in good faith for legitimate, non-discriminatory, business judgment reasons, based on its authority and/or were based on factors other than Plaintiff's allegations in the Complaint.

### FIFTEENTH DEFENSE

Defendant intends to rely on the affirmative defense that Plaintiffs and Plaintiffs' counsel filed a frivolous lawsuit and made factually erroneous and inflammatory statements in the Complaint which violates Rule 11, Hawaii Rules of Civil Procedure and failed their duty to investigate the factual basis for the allegations.

WHEREFORE, Defendant pray for the following:

1. That the Verified Complaint Filed on January 30, 2024 [Dkt. 1] be dismissed or in the alternative that the Plaintiff takes nothing by the Verified Complaint.
2. That Defendant be awarded his reasonable attorney's fees and costs incurred herein; and
3. That the Court grants such further relief as it deems just, proper and equitable.

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//

//

DATED: Hilo, Hawaii, February 23, 2024.

Respectfully submitted,

/s/ Ted H. S. Hong  
TED H. S. HONG  
Attorney at Law

Attorney for Defendant  
PATRICK JOHN LAWRENCE, JR., dba  
PJ'S CONSTRUCTION

TED H. S. HONG 3569  
Attorney at Law  
P. O. Box 4217  
Hilo, HI 96720  
Telephone No. 808.933.1919  
Facsimile No. 808.935.8281  
ted@tedhonglaw.com

Attorney for Counter-Claim Plaintiff  
PATRICK JOHN LAWRENCE, JR., dba  
PJ'S CONSTRUCTION

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

KEAAU DEVELOPMENT	)	Civil No. 3CCV-24-0000033
PARTNERSHIP LLC.,	)	(Other Civil Action)
	)	
Plaintiff/Counter-	)	COUNTERCLAIM; EXHIBIT "1;"
Claim Defendant,	)	DEMAND FOR TRIAL BY JURY
	)	
vs.	)	
	)	
PATRICK JOHN LAWRENCE, JR., dba	)	
PJ'S CONSTRUCTION; JANEL M.	)	
ARAUJO INC; JANEL ARAUJO;	)	
ROBERT C. SMELKER; ANNALEINE	)	
MELICIA REYNOLDS; LEORA WHITE	)	
THOMPSON; HEIRS OR ASSIGNS OF	)	
LEORA WHITE THOMPSON; COUNTY	)	
OF HAWAII; JOHN DOES 1-10; JANE	)	
DOES 1-10; DOE PARTNERSHIPS 1-10;	)	
DOE CORPORATIONS 1-10; DOE	)	
ENTITIES 1-10; DOE TRUSTS 1-10L and	)	
DOE GOVERNMENTAL AGENCIES	)	
1-10;	)	
	)	
Defendants/Counter-	)	
Claim Plaintiffs.	)	
	)	
	)	JUDGE: To be assigned

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**COUNTER-CLAIM**

Comes now, Counter-Claim Plaintiff, PATRICK JOHN LAWRENCE, JR., dba PJ'S CONSTRUCTION ("Lawrence"), by and through his undersigned counsel and hereby submits his Counter-Claim to Plaintiff's Verified Complaint Filed on January 30, 2024 [Dkt. 1], as follows:

### **I. PARTIES**

1. Counter-Claim Plaintiff, PATRICK JOHN LAWRENCE, JR., dba PJ'S CONSTRUCTION ("Lawrence"), is and at all relevant times mentioned in this Counter-Claim, a resident of County of Hawaii, State of Hawaii and does business as PJ's Construction, in the County and State of Hawaii.

2. Counter-Claim Defendant KEAAU DEVELOPMENT PARTNERSHIP LLC. ("KDP") is and at all relevant times mentioned in this Counter-Claim, a Limited Liability Company, organized under the laws of the State of Hawaii and does business in the County of Hawaii, State of Hawaii.

3. Counter-Claim Defendant KDP was engaged in an "enterprise" as part of a group of individuals associated for a particular purpose, which included, but not limited to, CM Installers, LLC, NKP Properties, LLC, John K. Mendonca and Paul Fujinaga.

### **II. JURISDICTION and VENUE**

4. Plaintiff incorporates as if realleged, paragraphs 1 through 3, herein.

5. This Counter-Claim is brought pursuant to Section 604-5, Hawaii Revised Statutes (hereinafter referred to as "HRS"), and Rule 13, Hawaii Rules of Civil Procedure (hereinafter referred to as "HRCP").

6. Venue is properly in this Court under Section 604-7(d), HRS, as the dispute arises

from an agreement between Counter-Claim Plaintiff and Counter-Claim Defendant and events and/or omissions giving rise to this action arose in the Third Circuit Court, State of Hawaii.

### **III. FACTS**

7. Plaintiff incorporates as if realleged, paragraphs 1 through 6, herein.

8. The Counter-Claim Plaintiff worked with Counter-Claim Defendant for several years.

9. The agreement between the parties was that the Counter-Claim Defendant would purchase property on the Island of Hawaii, sight unseen and Counter-Claim Plaintiff would provide services, including but not limited to constructing houses to be sold by the Counter-Claim Defendants.

10. The longstanding agreement was that Counter-Claim Defendant would pay the Counter-Claim Plaintiff for construction services and reimbursement for constructions material, based on submissions of invoices or requests for “draws” by the Counter-Claim Plaintiff.

11. Counter-Claim Defendant has wrongfully withheld and refused to disburse funds for construction services and reimbursement for constructions material provided to Counter-Claim Defendant. See, Exhibit “1,” attached hereto.

12. That at all times relevant in the Complaint and this Counter-Claim, the Counter-Claim Defendant had an agent and/or representative that personally viewed, inspected and approved construction on the lot in question and proceeded to list the lot and home for sale on behalf of the Counter-Claim Defendant.

13. Counter-Claim Defendant, including, but not limited to, CM Installers, LLC, NKP Properties, LLC, John K. Mendonca and Paul Fujinaga were engaged in an “enterprise” as part of a group of individuals associated for a particular purpose.



14. That at all times relevant, NKP Properties, LLC, was not an entity in good standing with the Department of Commerce and Consumer Affairs, State of Hawaii. Paul Fujinaga, was not authorized to conduct business under the limited liability company name, NKP Properties, LLC, including but not limited to exerting any control over the conduct, operations and business practices of KEAAU DEVELOPMENT PARTNERSHIP LLC.

#### **IV. CAUSES OF ACTION**

##### **A. COUNT I (Conversion)**

15. Counter-Claim Plaintiff incorporates as if realleged, paragraphs 1 through 14, herein.

16. That between July 26, 2023, August 13, 2023 until the present, the Counter-Claim Plaintiff owned or had the right to compensation for his services rendered, including reimbursement for costs. See, Exhibit “1,” attached hereto.

17. That between July 26, 2023, August 13, 2023, until the present, the Counter-Claim Plaintiff owned or had the right to possession of the compensation for his services rendered, including reimbursement for costs. The Counter-Claim Defendant exerted dominion over the property in denial of or inconsistent with Counter-Claim Plaintiff ‘s ownership or right to possession of the compensation for his services rendered, including reimbursement for costs. See, Exhibit “1,” attached hereto.

18. The Counter-Claim Defendant unlawfully withheld Counter-Claim Plaintiff’s compensation and reimbursement, thereby legally causing him damage. *Kailua Local Cab, Inc. v. AJA Motors Corp.*, 125 Hawai’i 242, 257 P.3d 1219, 2011 WL 1334960, at \*8 (Ct. App. 2011)

##### **B. COUNT II (Racketeering)**

19. Counter-Claim Plaintiff repeat and realleges the allegations in paragraphs 1 – 18 of

the Counter-Claim and incorporates the same by reference as though set forth fully herein.

20. Counter-Claim Defendant, CM Installers, LLC, NKP Properties, LLC, John K. Mendonca and Paul Fujinaga are “persons” under Sec. 842-1, HRS.

21. That all times relevant in this Counter-Claim, the Counter-Claim Defendant, CM Installers, LLC, NKP Properties, LLC, John K. Mendonca and Paul Fujinaga comprised a group of individuals associated for a particular purpose, although not a legal entity.

22. That all times relevant in this Counter-Claim, the “particular purpose” was to enable, empower and allow Counter-Claim Defendant to commit theft against Counter-Claim Plaintiff.

23. Counter-Claim Defendant, CM Installers, LLC, NKP Properties, LLC, John K. Mendonca and Paul Fujinaga engaged in “Racketeering Activity,” as defined in Section 842-1, HRS, including but not limited to:

a. That all times relevant in this Counter-Claim, the Counter-Claim Defendant, CM Installers, LLC, NKP Properties, LLC, John K. Mendonca and Paul Fujinaga committed Theft, pursuant to Sec. 708-830(1), HRS, by obtaining and exerting control over the personal property of the Counter-Claim Plaintiff, with the intent to deprive him of the personal property and enrich themselves; and/or

b. The Counter-Claim Defendant, CM Installers, LLC, NKP Properties, LLC, John K. Mendonca and Paul Fujinaga committed Theft, pursuant to Sec. 708-830(6)(a), HRS, by failing to make specified payments or other dispositions, to the Counter-Claim Plaintiff, and dealt with the personal property, to wit, money for the Counter-Claim Plaintiff, as their own, and failed to make the required

payments or dispositions, which detrimentally affected the Counter-Claim Plaintiff.

24. From May 1, 2020 through and including the present, Counter-Claim Defendant, CM Installers, LLC, NKP Properties, LLC, John K. Mendonca and Paul Fujinaga, by and through its officers, agents, representatives and employees who were employed by or associated with any enterprise, were a group of individuals associated for the particular purpose of defrauding the Counter-Claim Plaintiff and conducted or participated in the conduct of the affairs of the enterprise through racketeering activity in violation of Sec. 842-2(3), HRS.

**C. COUNT V. (Fraud)**

25. Counter-Claim Plaintiff repeats and realleges the allegations in paragraphs 1 – 24 of the Counter-Claim and incorporates the same by reference as though set forth fully herein.

26. Counter-Claim Defendant, by and through its officers, agents, representatives and employees made false representations to Counter-Claim Plaintiff, concerning his compensation and reimbursement for construction material and what options the Counter-Claim Plaintiff had in resolving the underlying problem of building a house on the wrong lot, including but not limited to NKP Properties LLC being a Limited Liability Company in good standing with the State of Hawaii and authorized to business within the State of Hawaii.

27. Counter-Claim Defendant knew that the representations made to Counter-Claim Plaintiff about his compensation, reimbursement for construction material and what options the Counter-Claim Plaintiff had in resolving the underlying problem of building a house on the wrong lot were false.

28. Counter-Claim Defendant intended that their false representations made to Counter-

Claim Plaintiff would result in Counter-Claim Plaintiff accepting responsibility for the underlying error and waive his entitlement to compensation and reimbursement. Counter-Claim Defendant even offered more construction work to unfairly influence the Counter-Claim Plaintiff to accept responsibility for the underlying error and waive his compensation and reimbursement. Counter-Claim Defendant knew that their representations made to Counter-Claim Plaintiff would result in Counter-Claim Defendant financially benefitting from the Counter-Claim Plaintiff accepting responsibility for the underlying error and waiving his compensation and reimbursement.

29. Counter-Claim Plaintiff detrimentally relied on Counter-Claim Defendant's false representations by delaying Counter-Claim Plaintiff's right to enforce and seek compensation and reimbursement for his services in constructing the home, according to the parties' agreement and practice.

30. Counter-Claim Defendant's actions were wilful, wanton, reckless or done with conscious indifference to the consequences so as to entitle Counter-Claim Plaintiff to an award of punitive damages in amounts to be proved at trial.

#### **V. PRAYER FOR RELIEF**

31. Wherefore, Counter-Claim Plaintiff prays that this Court:

- a. That Counter-Claim Plaintiff be awarded against Counter-Claim Defendant, general and special damages in amounts to be shown at trial; and
- b. Award Counter-Claim Plaintiff's compensatory damages, in an amount to be proved at trial;
- c. Award Counter-Claim Plaintiff's punitive damages, in an amount to be

proved at trial;

- d. Award Counter-Claim Plaintiff's costs and attorney's fees; and
- e. Award Counter-Claim Plaintiff any pre and post judgment interest;
- h. Grant such other relief as it may deem just and proper.

DATED: Hilo, Hawaii, February 23, 2024.

Respectfully submitted,

/s/ Ted H. S. Hong

TED H. S. HONG

Attorney at Law

Attorney for Counter-Claim Plaintiff

PATRICK JOHN LAWRENCE, JR., dba

PJ'S CONSTRUCTION

# EXHIBIT “1”

P.J.'s Construction

PO BOX 72  
Honolulu, HI 96728 US  
lawrence\_pat@hotmail.com

INVOICE

BILL TO  
Keaau Development

INVOICE 23-041  
DATE 08/13/2023  
TERMS Net 30  
DUE DATE 09/12/2023

DATE	ACTIVITY	DESCRIPTION	AMOUNT
	Sales	Final draw determined by HPM total	17,926.39
-----			
Total \$258,912.60		SUBTOTAL	17,926.39
Paid \$160,000.00		TAX	0.00
HPM \$80986.21		TOTAL	17,926.39
Balance \$17926.39		-----	
		BALANCE DUE	\$17,926.39

P.J.'s Construction

PO BOX 72  
Honolulu, HI 96728 US  
lawrence\_pat@hotmail.com

INVOICE

BILL TO  
Keaau Development  
Final 099

INVOICE 23-033  
DATE 07/26/2023  
TERMS Net 30  
DUE DATE 08/25/2023

DATE	ACTIVITY	DESCRIPTION	AMOUNT
	Sales	Final draw determined by HPM total	21,657.21
Total \$258,912.60		SUBTOTAL	21,657.21
Paid \$160,000.00		TAX	0.00
HPM \$77,255.39		TOTAL	21,657.21
Balance due \$21,657.21			
		BALANCE DUE	\$21,657.21

Pay invoice



TED H. S. HONG 3569  
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Attorney for Counter-Claim Plaintiff  
PATRICK JOHN LAWRENCE, JR., dba  
PJ'S CONSTRUCTION

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

KEAAU DEVELOPMENT	)	Civil No. 3CCV-24-0000033
PARTNERSHIP LLC.,	)	(Other Civil Action)
	)	
Plaintiff/Counter-	)	DEMAND FOR TRIAL BY JURY
Claim Defendant,	)	
	)	
vs.	)	
	)	
PATRICK JOHN LAWRENCE, JR., dba	)	
PJ'S CONSTRUCTION; JANEL M.	)	
ARAUJO INC; JANEL ARAUJO;	)	
ROBERT C. SMELKER; ANNALEINE	)	
MELICIA REYNOLDS; LEORA WHITE	)	
THOMPSON; HEIRS OR ASSIGNS OF	)	
LEORA WHITE THOMPSON; COUNTY	)	
OF HAWAII; JOHN DOES 1-10; JANE	)	
DOES 1-10; DOE PARTNERSHIPS 1-10;	)	
DOE CORPORATIONS 1-10; DOE	)	
ENTITIES 1-10; DOE TRUSTS 1-10L and	)	
DOE GOVERNMENTAL AGENCIES	)	
1-10;	)	
	)	
Defendants/Counter-	)	
Claim Plaintiffs.	)	
	)	JUDGE: To be assigned
	)	

**DEMAND FOR TRIAL BY JURY**

Comes now Counter-Claim Plaintiff, PATRICK JOHN LAWRENCE, JR., dba PJ'S  
CONSTRUCTION, by and through their undersigned counsel and hereby demands a Jury to try  
any and all claims in the Counter-Claim to be tried by a jury.

DATED: Hilo, Hawaii, February 23, 2024.

/s/ Ted H. S. Hong

TED H. S. HONG

Attorney at Law

Attorney for Counter-Claim Plaintiff

PATRICK JOHN LAWRENCE, JR., dba

PJ'S CONSTRUCTION

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

KEAAU DEVELOPMENT	)	Civil No. 3CCV-24-0000033
PARTNERSHIP LLC.,	)	(Other Civil Action)
	)	
Plaintiff/Counter-	)	CERTIFICATE OF SERVICE
Claim Defendant,	)	
	)	
vs.	)	
	)	
PATRICK JOHN LAWRENCE, JR., dba	)	
PJ'S CONSTRUCTION; JANEL M.	)	
ARAUJO INC; JANEL ARAUJO;	)	
ROBERT C. SMELKER; ANNALEINE	)	
MELICIA REYNOLDS; LEORA WHITE	)	
THOMPSON; HEIRS OR ASSIGNS OF	)	
LEORA WHITE THOMPSON; COUNTY	)	
OF HAWAII; JOHN DOES 1-10; JANE	)	
DOES 1-10; DOE PARTNERSHIPS 1-10;	)	
DOE CORPORATIONS 1-10; DOE	)	
ENTITIES 1-10; DOE TRUSTS 1-10L and	)	
DOE GOVERNMENTAL AGENCIES	)	
1-10;	)	
	)	
Defendants/Counter-	)	
Claim Plaintiffs.	)	
	)	
	)	JUDGE: To be assigned
	)	

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document, Counter-Claim and Demand for Trial by Jury was duly served via the Judiciary Electronic Filing System ("JEFS") to the following party on the date indicated below:

PETER S.R. OLSON, Esq.  
Olson & Sons  
P.O. Box 1688  
Kailua Kona, Hawaii 96745

Attorneys for KEAAU DEVELOPMENT PARTNERSHIP LLC

DATED: Hilo, Hawaii, February 23, 2024.

/s/ Ted H. S. Hong

TED H. S. HONG, Esq.

Attorney at Law

Attorney for Counter-Claim Plaintiff

PATRICK JOHN LAWRENCE, JR., dba

PJ'S CONSTRUCTION